

# Notice of Allowability

Application No.

10/814,155

Examiner

Javier G. Blanco

Applicant(s)

TOWNSEND ET AL.

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Response/Amendment filed on October 31, 2007.
2. ☒ The allowed claim(s) is/are 1,3,6,7,9-12,15,16,18 and 23-26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 12/18/2007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Javier G. Blanco  
December 19, 2007



## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2007 has been entered.

## EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ronald Shore on December 18, 2007.

**Claim 1** (Currently Amended) A prosthetic foot comprising:

a continuously longitudinally extending foot keel having longitudinally aligned forefoot, raised midfoot, and hindfoot portions;

a resilient, monolithically formed shank extending upwardly from the raised midfoot portion of the foot keel, by way of an anterior facing continuous convexly curved surface which extends over at least most of the length of the shank and has increasing radius

of curvature defining an ankle joint area and a curvilinear prosthetic part of a leg extending substantially upward above human ankle joint height and the ankle joint area, the shank having a proximal portion for connection with a lower extremity prosthetic structure adapted to be secured to a person's residual limb;

wherein the ankle joint area and the prosthetic part of a leg formed by the shank are anterior facing convexly curved and provide means for sagittal, anterior dorsiflexion and, posterior plantarflexion motion capabilities in response to a ground reaction force created in a person's gait in the prosthetic foot; and

wherein the shank and ~~at least the hindfoot portion of the~~ entire foot keel are monolithically formed; and wherein the anterior facing continuous convexly curved surface extends the entire length of the ankle joint area and curvilinear prosthetic part of a leg defined by the shank.

**Claim 2** has been cancelled.

**Claim 10** (Currently Amended) A ~~prosthesis~~ prosthetic foot comprising:

a continuously longitudinally extending foot having longitudinally aligned forefoot, raised midfoot, and hindfoot portions;

an ankle;

an elongated, upstanding shank adapted to extend above human ankle joint height and the ankle;

wherein the ankle, shank, and ~~at least the hindfoot portion of the~~ entire foot are monolithically formed as a resilient member for improving the dynamic response of the

prosthesis, the resilient member in the area of the ankle and shank being anterior facing convexly curved over ~~at least most of the length of resilient member~~ the entire length of the ankle and shank of the resilient member above the foot, wherein the ankle extends upwardly from the raised midfoot portion of the foot, wherein the radius of curvature of the anterior facing convexly curved resilient member increases progressively as the resilient member extends upwardly from the foot, and wherein the resilient member provides means for sagittal, anterior dorsiflexion and posterior plantarflexion motion capabilities in response to a ground reaction force created in a person's gait in the prosthesis.

3. Claims 1, 6, 7, 9, 10, 11, 15, 16, 18, and 23-26 are allowable. Claims 3 and 12, previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), the restriction requirement as set forth in the Office action mailed on November 4, 2005, is hereby withdrawn and claims 3 and 12 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### **Reasons for Allowance**

4. The following is an examiner's statement of reasons for allowance: The Prior Art does not disclose or suggest a prosthetic foot comprising a monolithically formed elongated, semi-rigid, resilient member comprising the combination of structural and functional limitations as recited in claims 1, 3, 6, 7, 9, 10, 11, 12, 15, 16, 18, and 23-26, particularly the structural limitations "wherein the ankle, shank, and the entire foot are monolithically formed as a resilient member"; "the resilient member in the area of the ankle and shank being anterior facing convexly curved over the entire length of the ankle and shank of the resilient member above the foot"; and "wherein the ankle extends upwardly from the raised midfoot portion of the foot".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 571-272-4747. The examiner can normally be reached on M-F (9:00 a.m.-7:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and After Final communications. Any inquiry of a general nature or relating to

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the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Javier G. Blanco

December 19, 2007



CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700